UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/253,117	02/19/1999	JOZSEF KIRALY	ASCI-006	5244

7590 11/16/2005	**EXAMINER**
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SAN JOSE, CA 95113	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/253,117	KIRALY, JOZSEF
	Examiner	Art Unit	
	Reuben M. Brown	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 July 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-44</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-44</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/22/05 has been entered.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ice, (U.S. Pat

5,884,031), in view of Ishida, (U.S. Pat # 6,122,259) and Chaudhuri, (U.S. Pat # 6,600,719).

Considering amended claims 1, 8, 15, 24 & 35, Ice discloses an information transfer

systems and methods for broadcasting files to a plurality of receiving destinations comprising the

steps of: causing a transmitting communication Server A to transmit a first stream of data

representing digital broadcast information to relaying client system C 1 & C2, wherein server A

and clients Cl & C2 may be coupled to the Internet, (Abstract; col. 1, lines 25-45; col. 2, lines

1550). Ice furthermore causes client devices C 1 & C2, to relay broadcast information the next

level of client systems; such as C3-C6 see Fig. 1 & col. 3, lines 11-28.

With respect to the amended claimed feature of receiving and rendering the broadcast

information in a first user device as well as the second or third user device to which the first user

device transmits or relays the instant broadcast information, this feature reads on the operation of

Ice, col. 3, lines 62-67. However, Ice does not explicitly teach the additionally claimed feature of

receiving and rendering, concurrently the broadcast information on the first, second and third

user devices.

Nevertheless, Ishida discloses a system wherein video information is simultaneously

multicast to all of the user data terminals in the system. It is specifically taught that each of the

multipoint conference devices receives multicast data such as audio & video, and displays the

data on the monitor, while relaying it to the subsequent terminal, col. 4, lines 21-27, which reads

on the claimed feature. One of ordinary skill in the art at the time the invention was made would

have been motivated to construct a system with as little delay as possible, thereby enable

concurrent reception and display of information among all of the participating clients, since in

fact all of the clients are receiving the same information. If the clients at the end of the relay

(intermediate or last levels) receive their information with a significant delay, such an

arrangement would represent an undesirable quality of service value for the instant clients,

especially for live or real-time events.

It would have been obvious for one of ordinary skill in the art at the time the invention

was made, to modify Ice with the teachings of Ishida providing simultaneous reception and

display of audio/video data to all the terminals in a network using a relay algorithm, at least for

the desirable advantage of supporting real-time communication or events, which is the purpose

of Ishida.

Examiner notes that Ishida is specifically disclosed within an ISDN environment,

whereas the present invention is directed to the Internet. However, as discussed above, Ice

discloses that the invention operates over the Internet. Moreover, at the time the invention was

made, it was known in the art that ISDN channels are enabled to support IP, i.e. Internet

Protocol, which is utilized in Ice, thus the two references are compatible.

As for the additionally amended claimed feature wherein the user devices form one or more communication chains such that each chain has one more tiers is met by Ice, (Fig. 1). The claims additionally recite that the sum of user devices in corresponding tiers of the communication chains is variable, instead of pre-determined. Examiner points out that Ice discloses an embodiment with pre-determined *maximum* number of clients directly connected to the server A, and a pre-determined *maximum* of clients downwardly connected to each relaying client; see col. 1, lines 35-45; col. 2, lines 18-28 & col. 3, lines 64-67. However, the actual number clients downwardly connected to each relaying client is still variable, *up to a maximum*.

The Ice meets the amended claimed subject matter, since each particular client has a variable number of clients downwardly connected, i.e. between 0 and 4. Therefore the sum of user devices in the corresponding tiers of Ice is variable and not pre-determined. Moreover, Ice clearly teaches that the pre-determined rules of the network may be changed in order to vary the structure of the network, col. 4, lines 18-27.

Regarding the newly claimed technique of each user device sending its update status to a transmission scheduler, which monitors the update messages and initiates changes among the server and user devices, Ice does not explicitly teach such a feature. Nevertheless, Chaudhuri teaches a method of restoring communication in a network when a node failure has been detected, Abstract; col. 3, lines 25-30; col. 5, lines 21-65 & col. 9, lines 61-65 thru col. 10, lines 1-45. Chaudhuri specifically discusses an algorithm for detecting a node failure (which reads on 'a status update') and as a result initiates a network re-configuration, (which reads on 'initiates

changes...'. It would have been obvious for one of ordinary skill in the art at the time the

invention was made, to modify Ice with the technique of restoring a network communication

after a node failure, as taught by Chaudhuri (col. 2, lines 51-67), at least for the well known

desirable advantage of a robust network.

As for the additional feature of 'each user device registering and periodically sending

status update messages', Chaudhuri detects updates by sending a signal down restoration links to

determine operating status, col. 2, lines 56-60, which is different. However, Chaudhuri does

teach that two-way communication may be used in the restoration process, col. 4, lines 40-64.

Nevertheless, Official Notice is taken that at the time the invention was made, terminals or nodes

periodically transmitting their operating status to central location was very well known in the art.

It would have been obvious for one of ordinary skill in the art at the time the invention was

made, to modify Ice with the old art of a terminals periodically transmitting its status upstream to

a network manager, for the known advantage of maintaining a current status of terminals on the

system, without having to wait for a polling message to be sent.

The claims additionally recite that the scheduler actively monitors and initiates 'failure-

based and performance-based changes', which reads on Caldara, (col. 3, lines 1-5; col. 9, lines 1-

65 & col. 13, lines 55-65).

Regarding claim 8, in Ice the first group of user devices reads on C 1 & C2, the second

group of user devices reads on C3-C6 (Fig. 1).

Regarding claim 35, the instant claim includes the limitation that the server is configured

by a transmission scheduler to communicate the digital streams to the first & second devices and

that the scheduler maintains communication links between the server and first, second & third

user devices. Accordingly, examiner points out that Ice discloses that when the Server A receives

a request from a client not in first level of clients, such as C3, the server A sends the instant

client an instruction to connect to a particular client such as client C 1. Moreover C 1 is

instructed to transmit information to particular additional clients.

Considering claims 2-4, 16-19, 27-30 & 37-40, Ice teaches a system and a method of

transferring, communicating and broadcasting "files", but does not disclose the specific types or

content of the files. Nevertheless, at the time the invention was made, transferring and

broadcasting radio, audio, visual television and computer program files over a communications

network was very well known in the art. Ishida teaches the multicasting of audio & video data,

col. 3, lines 35-40 & col. 4, lines 21-23. Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Ice to broadcast radio,

audio, visual, television and computer files so that a user may access audio/video and program

data in order to have a fully interactive entertainment system.

Considering claims 5, 11, 20, 31 & 41, Ice reveals client relaying communication devices

C 1 & C2, wherein the systems are capable of receiving files and further relaying and

communicating broadcast files to a plurality of other users (Fig. 1). Ice furthermore teaches that

for instance client device C3, will receive broadcast information from C2, in the event that its original provider, C1, becomes inactive, see col. 2, lines 18-21, which reads on the claimed subject matter.

Considering claims 6-7, 21-23, 32-34 & 42-44, Ice teaches that client device C2, which is comparable to device C 1, relays the broadcast information to further clients devices, in the same manner as C 1.

Considering claim 9, Ice teaches direct communication links between the first group of electronic devices and the second group of electronic devices (claims 1 and 2).

Considering claim 10, Ice teaches that the server A includes a database 22 holding a list of all clients presently connected to the network, col. 2, lines 45-55. This disclosure suggests that the system tracks in real-time the connection status of clients, thereby reading on periodically updating the status of the devices.

Considering claim 12, Ice teaches terminating direct communications links with terminals that disconnect from the server, i.e. become inactive, see col. 3, lines 44-50.

Considering claim 13, Ice discloses a first and second set of electronic devices each comprising a computer system configured for receiving and relaying broadcast information (Fig. 1).

Considering claim 14, Ice is directed to operating over the Internet.

Considering claims 25-26 & 36, in Ice each user device that seeks to receive information

connects with server A over the Internet. Server A then instructs particular clients to connect

with the other specific clients and subsequently relay information. Ice also discloses maintaining

a log of clients on the system, see col. 2, lines 45-54.

Any response to this action should be mailed to:

> Commissioner for Patents
> P.O. Box 1450
> Alexandria, VA 22313-1450
> www.uspto.gov

> **or faxed to:**
> (571) 273-8300, (for formal communications intended for entry)
> **Or:**
> > (571) 273-7290 (for informal or draft communications, please label
> > "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

REUBEN M. BROWN
PATENT EXAMINER